(4)

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No. 581 of 2005

PETITIONERS: DEFENDANTS

1). Smt. Bhanu Ben,
Wd./o Late Govind Bhai Bhinde,
Aged about 60 years,
R/o Behind Radha Madhav Press,
Raigarh, Chhattisgarh.

2). Shrikant Bhinde,
S/o Late Govind Bai Bhinde,
Aged about 45 years,
Occupation: Business, R/o Ganja Chowk
Tehsil & District: Raigarh (C.G.).

5881/05 Sameer Behar
P.R. No.
Presented by Shri
dated 14-02-05

- Versus -

RESPONDENTS: PLAINTIFFS

1). Smt. Savita Devi,
W/o Late Devendra Savaria,
Aged about 51 years

2). Yashwant Savaria,
S/o Nanelal Savaria,
Aged about 52 years,

3) Jayanti Savaria,
S/o Nanelal Savaria,
Aged about 50 years,

All R/o Gandhi Ganj, Station Road, Raigarh, Tehsil & Distt. Raigarh, Chhattisgarh.

WRIT PETITION UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA.

The petitioners, above named, most respectfully beg to submit as under: -

1. **PARTICULARS OF THE PETITIONERS**: -

   As mentioned in the cause title.

2. **PARTICULARS OF THE RESPONDENTS**: -

   As mentioned in the cause title.

XI-HC-22

(65)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 581 **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3-3-2005 Mr. B.D. Guru, counsel for the petitioners. By this writ petition, the petitioner seeks to question the legality, propriety and correctness of the order dated 17-01-2005 (Annexure P-1) passed by the 2nd Civil Judge, Class-II, Raigarh, and order dated 07-10-2003 (Annexure P-2) passed by the 4th Civil Judge, Class-II, Raigarh. I have heard learned counsel for the petitioners on the question of admission of this writ petition. As far as the order dated 07-10-2003 is concerned, the defence of the petitioners was struck off on account of the non-deposit of rent month by month. Learned counsel submits that the rent was deposited in the month of August, 2002. But, the perusal of the order reveals that the rent was not deposited after June, 2002, month by month, and that is why the defence of the petitioners herein was struck off under Section 13 (6) of the Chhattisgarh Accommodation Control Act, 1961, against which the petitioners herein filed a review petition, the same was also dismissed by order dated 13-02-2004, and no revision was filed against this order. In the first instance, alternative remedy was available to the petitioners herein the same was not availed. Even otherwise, learned counsel is not able to point to any legality or infirmity in this order. Therefore, on this ground, the petition is not maintainable. Now coming to the order dated 17-01-2005, by this order, learned Civil Judge has rejected the application filed by the petitioners herein for amendment of the written statement. The application was rejected by the learned Civil Judge on the ground that since the defence of the petitioners herein has been struck off, therefore, they are not entitled to raise the pleas mentioned in the IAs by way of amendment in the written statement. In my	

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(66)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

opinion, this order also does not suffer from any illegality, because the defence of the petitioners herein was struck off vide order dated 07-10-2003 on account of the non-deposit of rent. Therefore, all the defences available to the petitioners under the Chhattisgarh Accommodation Control Act, 1961 were already struck off. In the circumstances, the petitioners cannot be allowed to raise the defences by way of amendment.

In view of the above, I do not find any substance in this writ petition, the same is liable to be dismissed and it is accordingly, dismissed, at the admission stage itself.

Consequently, M.(W.)P.No.474/2005 and I.A.No.1216/2005 stand disposed of.

Sd/-
L.C.Bhadoo
Judge